

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PHILIP ANGUS ET AL,

Plaintiffs,

v.

FLAGSTAR BANK, FSB,

Defendant.

Case No. 2:21-cv-10657

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
DAVID R. GRAND

ANDREW HAWKINS ET AL,

Plaintiffs,

v.

FLAGSTAR BANK, FSB,

Defendant.

Case No. 2:21-cv-11165

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
DAVID R. GRAND

ORDER APPOINTING INTERIM LEAD COUNSEL

On March 25, 2021, Plaintiffs Philip Angus, *et al.* filed the first of five related cases that have been filed in this District (21-cv-10657). On April 6, 2021 (Doc. 4) and April 21, 2021 (Doc. 9), the Court consolidated the second and third related cases (21-cv-10671 and 21-cv-10786) with the *Angus* case.

On June 22, 2021, counsel in the consolidated *Angus* case, having self-organized, filed a Motion to Appoint Interim Lead Counsel (Doc. 22 in 21-cv-10657), proposing John A. Yanchunis of Morgan & Morgan, P.A. as Interim Lead Counsel and Jeffrey S. Goldenberg, Gary E. Mason, Charles E. Schaffer, M. Anderson Berry, Brian D. Flick, and Bryan Bleichner as members of an Executive Committee. Defendant Flagstar Bank, FSB filed a response in opposition to the motion (Doc. 26 in 21-cv-10657).

On July 6, 2021, counsel in the fourth related case filed in this District (21-cv-11165) filed a Motion for Consolidation and for Appointment of Girard Sharp LLP and Andrew J. McGuinness as Interim Lead Counsel (Doc. 27 in 21-cv-10657 and Doc. 5 in 21-cv-11165). Additionally, on July 16, 2021, a fifth related case (2:21-cv-11652) was transferred as a companion case to *Angus* from United States District Court Judge Stephen J. Murphy, III to this Court.

On July 16, 2021, the Court held a hearing on the above motions and, after hearing argument from representatives for the parties in each of the five related cases, granted the Motion to Appoint Interim Lead Counsel (Doc. 22 in 21-cv-10657), proposing John A. Yanchunis of Morgan & Morgan, P.A. as Interim Lead Counsel and Jeffrey S. Goldenberg, Gary E. Mason, Charles E. Schaffer, M. Anderson Berry, Brian D. Flick, and Bryan Bleichner as members of an Executive Committee, and denied the Motion for Consolidation and for Appointment of Girard

Sharp LLP and Andrew J. McGuiness as Interim Lead Counsel (Doc. 27 in 21-cv-10657 and Doc. 5 in 21-cv-11165).

Accordingly,

IT IS ORDERED that the Motion to Appoint Interim Lead Counsel (Doc. 22 in 21-cv-10657), proposing John A. Yanchunis of Morgan & Morgan, P.A. as Interim Lead Counsel and Jeffrey S. Goldenberg, Gary E. Mason, Charles E. Schaffer, M. Anderson Berry, Brian D. Flick, and Bryan Bleichner as members of an Executive Committee, is **GRANTED** and the Motion for Consolidation and for Appointment of Girard Sharp LLP and Andrew J. McGuiness as Interim Lead Counsel (Doc. 27 in 21-cv-10657 and Doc. 5 in 21-cv-11165) is **DENIED**.

IT IS FURTHER ORDERED as follows:

1. Interim Lead Counsel John A. Yanchunis shall be responsible for the overall conduct of the litigation on behalf of the proposed class, including providing supervision of all Plaintiffs' counsel in this litigation. As Interim Lead Counsel for the class, Mr. Yanchunis has the authority to:

- a. Promote efficient conduct of this litigation and avoid unnecessary duplication and unproductive efforts by making and supervising all work assignments;
- b. Prepare and file the second Consolidated Class Complaint on behalf of the proposed class, and any subsequent pleadings;

- c. Make, brief, and argue motions;
- d. Conduct all pretrial, trial, and post-trial proceedings on behalf of the proposed class and act as spokespersons for the proposed class;
- e. Conduct or coordinate discovery on behalf of the proposed class consistent with the Federal Rules of Civil Procedure, including preparation of (or responses to) written discovery requests and examination (or defense) of witnesses in depositions;
- f. Monitor activities of the Plaintiffs' counsel to whom he delegates work and implement procedures to ensure that schedules are met and unnecessary expenditures of time and funds are avoided by collecting from each firm regular time and expense reports;
- g. Negotiate with defense counsel with respect to settlement and other matters;
- h. Prepare any application for an award (or approval) of fees and reimbursement of expenses incurred by the proposed class, and allocate among Plaintiffs' counsel any such fees and expenses awarded;
- i. Consult with and retain expert witnesses for the proposed class;
- j. Consult with, retain, and manage relations with outside vendors for the collection, processing, or review of documents and electronically stored information produced in discovery;

- k. Conduct or coordinate all negotiations with defense counsel regarding search and production protocols, manage the review of documents produced by Defendants and third parties (and production of documents by the proposed class Plaintiffs), and implement advanced analytics for the efficient review of documents as appropriate;
- l. Coordinate and communicate as necessary with counsel for other parties in the litigation regarding any matters addressed in this Order in order to ensure efficient use of Plaintiffs', Defendants', and the Court's time;
- m. Ensure that all Plaintiffs' counsel and Plaintiffs are informed of the progress of this litigation as necessary; and
- n. Otherwise coordinate the work of Plaintiffs' counsel and perform such other duties as Interim Lead Counsel deems necessary and appropriate based upon his judgment and consideration or as authorized by further Order of the Court.

2. The following counsel are appointed to the Interim Executive Committee: Jeffrey S. Goldenberg, Gary E. Mason, Charles E. Schaffer, M. Anderson Berry, Brian D. Flick, and Bryan Bleichner. Interim Lead Counsel shall regularly collaborate with the Interim Executive Committee with respect to the duties and responsibilities referenced in paragraph 1(a)-(n).

3. All Plaintiffs' counsel shall keep a daily record of their time spent and expenses incurred in connection with this litigation, indicating with specificity the hours and particular activities performed. All Plaintiffs' counsel shall endeavor to keep fees reasonable and to choose the most appropriate level of staffing for the tasks required in this litigation. The provisions of this paragraph do not limit the discretion of Interim Lead Counsel in basing an allocation of any fee award among Plaintiffs' counsel, whether based on lodestar, a percentage-based allocation, a combination of the two, or any other reasonable method of allocation.

SO ORDERED.

Dated: July 30, 2021

s/Arthur J. Tarnow
Hon. Arthur J. Tarnow
Senior United States District Judge